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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,473	05/08/2006	Lawrence M. Ausubel	22209-00004-US2	8995
30678 7590 07/13/2009 CONNOLLY BOVE LODGE & HUTZ LLP 1875 EYE STREET, N.W. SUITE 1100 WASHINGTON, DC 20006				
EXAMINER				
HAVAN, THU THAO				
ART UNIT		PAPER NUMBER		
3695				
MAIL DATE		DELIVERY MODE		
07/13/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/578,473

**Applicant(s)**

AUSUBEL ET AL.

**Examiner**

THU-THAO HAVAN

**Art Unit**

3695

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 March 2009.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-78 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☒ Claim(s) 1-74 is/are allowed.  
6) ☒ Claim(s) 75-78 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 8 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

### **Detailed Action**

#### ***Response to Amendment***

Claims 1-78 are pending. This action is in response to the amendment received March 30, 2009.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 1-78 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Drawings***

The Examiner accepts the drawings filed on May 8, 2006.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims **75-78** are rejected under 35 U.S.C. 102(e) as being anticipated by Bykowsky et al. (US 2002/0013757).

Re claims **75** and **77**, Bykowsky teaches a computer system for determining an allocation of items and payments among a plurality of bidders wherein bids are received at the system and the allocation of the items and the payments are determined by the system based on the bids (abstract), comprising:

means for receiving bids, including package bids (fig. 7), and

means for processing the received bids to determine an outcome comprising an allocation of the items among the bidders and payments associated with the bidders, wherein the determined outcome is a core outcome with respect to the received bids (para. 0071).

Re claims **76** and **78**, Bykowsky teaches determined outcome is a bidder-optimal core outcome with respect to the received bids (para. 0153).

#### ***Allowable Subject Matter***

Claims **1-74** are allowed.

The following is an examiner's statement of reasons for allowance: The prior arts of record fail to teach, singly or in combination, a) implementing the dynamic auction phase on at least one of said a computers, said dynamic auction phase comprising: a1) receiving bids on at least one of said computers from at least one bidder, said bids including at least an indicator of at least one of the items; a2) determining whether the dynamic auction phase of the auction should continue, based on received bids; a3) outputting auction information; and a4) repeating a1) - a3) if the dynamic auction phase of the auction is determined to continue; b) changing from the dynamic auction phase to the later phase, following a determination not to continue the dynamic auction phase;

and c) implementing the later phase of the auction on said first a computer, the later phase comprising a package auction, said later phase comprising: c 1) receiving bids at the first computer from at least one bidder using the at least one other computer, said bids including at least an indicator of a package of items and an associated price for the package; and c2) determining on the first computer an allocation of at least one of the items to one of the bidders based on received bids.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Thao Havan whose telephone number is (571) 272-8111. The examiner can normally be reached on Monday-Friday from 6am-2pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Kyle can be reached on (571) 272-6746. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct-uspto.gov/>. Should you have questions on access to the

Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

/Thu Thao Havan/

Primary Examiner, Art Unit 3695